

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:95CR20-02-MU**

UNITED STATES OF AMERICA)
)
vs.) **ORDER**
)
JAMES L. JOHNSON,)
)
Defendant.)
)

THIS MATTER is before the court upon Motion of Pro Se Defendant James L. Johnson (“Johnson”). Johnson seeks restitution of money allegedly paid by him or on his behalf to attorney Lyle J. Yurko for representation in his criminal case. As an initial matter, the Court notes that this action alleges no constitutional or statutory violations that would warrant this Court’s jurisdiction from a criminal standpoint. In fact, Defendant even notes on the first page of his motion that it is a “civil action.”

Even were this matter recast as a civil suit, this Court would lack jurisdiction. As noted above, there appears to be no federal question involved, so jurisdiction cannot rest on those grounds. See 28 U.S.C. § 1331 (West, Westlaw through 1980 amendments). Additionally, even were diversity of the parties assumed, Defendant specifically states that the amount in controversy is \$5,517.30, well short of the \$75,000 bar imposed by 28 U.S.C. § 1332(a). Thus, this Court lacks jurisdiction to hear this case, and Defendant's motion is DISMISSED without prejudice. Defendant may refile this action in a more appropriate court.

IT IS SO ORDERED.

Signed: March 30, 2006



Graham C. Mullen
United States District Judge

